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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 CEN COM INC., a Washington)
8 corporation d/b/a American Digital) CASE NO. C17-0560RSM
9 Monitoring,)
10 Plaintiff,) ORDER DENYING PLAINTIFF'S
11 v.) MOTION TO COMPEL
12)
13 NUMEREX CORP., a Pennsylvania)
14 corporation; NEXTALARM, LLC, a)
15 Georgia limited liability corporation, and)
16 DOES 1-10,)
Defendants.)
_____)

17 THIS MATTER comes before the Court on Plaintiff's Motion to Compel the Production
18 of Documents.¹ Dkt. #127. Defendant opposes the motion. Dkt. #131. For the reasons set forth
19 below, the Court DENIES the motion.
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21 Plaintiff asks the Court to issue an Order compelling Defendants to produce
22 electronically-stored information containing the search term "ADM." Dkt. #127 at 1.
23 Defendants respond that the search term is presumptively overbroad, given than the term has
24 returned approximately one gigabyte of data, excluding Microsoft PowerPoint files, Microsoft
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27 ¹ The discovery motions deadline in this matter was March 23, 2018. Dkt. #20. However, the
28 Court's Order granting in part Defendants' motion to dismiss allowed Plaintiff to refile the instant
motion as it pertained to the remaining claim and counterclaims. Dkt. #111. Thus, the Court
now considers this motion.

1 Excel files, image or audio files, or similarly large file types, and there is no good cause shown
2 for an order compelling the production of that information. Dkts. #131 at 3 and #132 at ¶ 2.

3 The parties have stipulated to an Agreement Regarding the Discovery of Electronically
4 Stored Information (“ESI”) in this matter, which this Court has entered. Dkt. #18. That
5 Agreement sets forth a search methodology that directs the parties to attempt to reach agreement
6 on search terms and cooperate in revising the appropriateness of a given search term as discovery
7 proceeds. Dkt. #18 at ¶ 2a.-d. The Agreement also explicitly states that “broad terms or queries,
8 such as product **and company names, generally should be avoided.**” *Id.* at 2.c. (emphasis
9 added). Further, “[a]bsent a showing of good cause, each search term or query returning more
10 than 250 megabytes of data are presumed to be overbroad, excluding Microsoft PowerPoint files,
11 image and audio files, and similarly large file types.” *Id.*

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14 Defendants have informed Plaintiff that the search term “ADM” has returned nearly one
15 gigabyte of information. Dkt. #127 at 3. However, Plaintiff asserts that there is good cause to
16 compel the disclosure of that information because (1) the 2016 Alarm Delivery contract under
17 which Defendants’ are obligated to pay fees for services rendered refers to the plaintiff as
18 “ADM”; (2) the 2015 contract ADM asserts grants it the right to use Defendants’ trademark
19 refers to the plaintiff as “ADM”; and (3) Defendants’ employees testified they used the term
20 “ADM” in correspondence related to the issues presented in this matter. *Id.*

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22 For the reasons set forth by Defendant in its opposition, the Court disagrees with Plaintiff
23 that good cause has been shown. *See* Dkt. #131. Federal Rule of Civil Procedure provides that
24 “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s
25 claim or defense and **proportional to the needs of the case**, considering the importance of the
26 issues at stake in the action, the amount in controversy, the parties’ relative access to relevant
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1 information, the parties' resources, the importance of the discovery in resolving the issues, and
2 whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R.
3 Civ. P. 26(b)(1) (emphasis added). While neither party disputes that the term "ADM" is relevant,
4 Defendant demonstrates that the information sought is not proportional to the needs of the case.
5 If the Court required Defendants to produce nearly one gigabyte of information, Defendants
6 would be forced to expend extensive resources to review 5,591 individual documents for
7 privilege and other potential discovery objections, after discovery has closed and pre-trial
8 preparation approaches. Further, Plaintiff does not adequately explain why the "ADM" search
9 term cannot be modified or narrowed through additional words, date restrictions, custodian
10 restrictions or other boolean operators.
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13 Accordingly, having reviewed Plaintiff's motion, along with the opposition thereto, reply
14 in support thereof, and the remainder of the record, the Court hereby finds and ORDERS that
15 Plaintiff's Motion to Compel (Dkt. #127) is DENIED. The Court also declines to award any
16 party fees and costs related to this motion.
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18 Nothing in this Order precludes the parties from attempting to reach an agreement on
19 narrowed search terms related to "ADM."

20 DATED this 18 day of June, 2018.

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24 RICARDO S. MARTINEZ
25 CHIEF UNITED STATES DISTRICT JUDGE
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